



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,727	04/14/2004	Sam Colosimo	1596-3/AMK	4795
38735 7590 12/13/2007 DIMOCK STRATTON LLP 20 QUEEN STREET WEST SUITE 3202, BOX 102 TORONTO, ON M5H 3R3 CANADA			EXAMINER SPAHN, GAY	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/823,727	Applicant(s) COLOSIMO ET AL.	
	Examiner Gay Ann Spahn	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,10,12 and 15-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,10,12 and 15-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 4, 5, and 13 is withdrawn in view of the cited but unapplied references to SMITH (U.S. Patent No. 3,759,005) and MUNSEY ET AL. (U.S. Patent No. 4,850,176). Rejections based on the cited but unapplied references follow below.

Priority

The present examiner notes that in the Office Action mailed on 13 October 2006, Examiner Horton acknowledged receipt of the certified copies of the priority documents. However, no such document has been received. Therefore, the present examiner is vacating Examiner Horton's acknowledgment of receipt of the certified copy of the priority document as follows:

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in CANADA on 13 April 2004. It is noted, however, that applicant has not filed a certified copy of the Canadian application as required by 35 U.S.C. 119(b).

Drawings

It is noted that in the Office Action mailed on 13 October 2006, Examiner Horton accepted the drawings filed on 14 April 2004. The present examiner is vacating

Examiner Horton's acceptance of the drawings filed on 14 April 2004 and objecting the drawings as noted below.

The drawings are objected to because:

- (1) Figs. 1-5, the "box" enclosing each of the figures must be deleted;
- (2) Fig. 1, the underlining under reference numeral "50" is only appropriate if reference numeral "50" is on the structure it represents and since there is no "outline" for the sub-floor, it is not clear that reference numeral "50" is on the sub-floor;
- (3) Fig. 1, the arrow at the end of the lead line leading from reference numeral "4" does not comply with 37 C.F.R. § 1.84(r)(1-3) and therefore, should be deleted;
- (4) Fig. 1, if the pedestals/head plates in the two upper rows are beneath the floor panels "4", then they should be shown in dashed or phantom lines;
- (5) Fig. 1, the rightmost lead line leading from reference numeral "30" must not cross the lead line leading from reference numeral "4" according to 37 C.F.R. § 1.84(q);
- (6) Fig. 2, an exploded view must have the separated parts embraced by a bracket according to 37 C.F.R. § 1.84(h)(1);
- (7) Fig. 2, the lead line leading from reference numeral "18" must not cross the lead line leading from reference numeral "11" according to 37 C.F.R. § 1.84(q);
- (8) Fig. 2, the underlining under reference numeral "50" is only appropriate if reference numeral "50" is on the structure it represents and since there is no "outline" for the sub-floor, it is not clear that reference numeral "50" is on the sub-floor;

(9) Fig. 2, the arrows at the end of the lead lines leading from reference numerals "16", "38", and "11" appear not to comply with 37 C.F.R. § 1.84(r)(1-3) and therefore, should be deleted;

(10) Fig. 2, the lead line above the head plate and which does not lead to a reference numeral should be deleted or else a reference numeral should be inserted, if appropriate;

(11) Fig. 3, the underlining under reference numeral "50" is only appropriate if reference numeral "50" is on the structure it represents and since there is no "outline" for the sub-floor, it is not clear that reference numeral "50" is on the sub-floor;

(12) Fig. 3, the arrows at the end of the lead lines leading from reference numerals "4", "8", "10", "12", "14", "16", "18", "53", "54", and "56" appear not to comply with 37 C.F.R. § 1.84(r)(1-3) and therefore, should be deleted;

(13) Fig. 4, in the center of the figure, a straight vertical line extending downwardly below reference numeral "52" should be deleted or else given a reference numeral and lead line and explained in the specification;

(14) Fig. 4, the line break of the left floor panel should be redrawn to be the same as the line break on the right floor panel;

(15) Fig. 4, the two lead lines at the bottom of the figure that do not lead to any reference numerals should be deleted;

(16) Fig. 4, the gasket "20" should not be "black", but should either be shown in outline form as is done in Fig. 5 or may show the material it is made of according to the Manual of Patent Examining Procedure (MPEP) § 608.02 IV, Drawing Symbols, if such

is disclosed in the specification (however, if no particular material is disclosed in the specification, then this would be new matter);

(17) Fig. 6, the arrows at the end of the lead lines leading from reference numerals "72", "74", "78", and "92" appear not to comply with 37 C.F.R. § 1.84(r)(1-3) and therefore, should be deleted;

(18) Fig. 6, the lead line leading from reference numeral "34" must not cross the lead line leading from reference numeral "74" according to 37 C.F.R. § 1.84(q);

(19) Fig. 6, the straight vertical line down the center of the diffuser "70" is not understood and should be given a reference numeral and lead line and explained in the specification;

(20) Fig. 6, it is not understood why the diffuser "70" is "different" on either side of the vertical straight line down the center thereof, and if this is a cutaway view in some manner, this must be explained in the specification; and

(21) Fig. 7, either this is four separate figures or if it is an exploded view, then it must have a bracket enclosing separated parts as required by 37 C.F.R. § 1.84(h)(1).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- (1) reference numeral "11" shown in Fig. 2.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

(1) line 4 of paragraph no. [0019], the third occurrence of the quotation marks (or inch symbol) should be deleted as superfluous;

(2) line 3 of paragraph no. [0024], the quotation mark (or inch symbol) must be deleted; and

(3) line 12 of paragraph no. [0028], reference numeral "10" should be changed to --12--.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102 and 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by SMITH (U.S. Patent No. 3,759,005).

As to claim 12, SMITH discloses an access floor panel for attachment to a pedestal of an access floor assembly, the access floor panel comprising:

a top planar surface and an opposed bottom planar surface, said access floor panel (10) defining a plurality of peripheral edges; and

a plurality of gaskets (20, 20), one said gasket (20) being attached to each of said peripheral edges, said gaskets (20, 20) each having a first portion (21/22/27) attached a respective said peripheral edge and a flexible and resilient sealing portion (28) adapted to create a seal between said respective peripheral edge and a peripheral edge of an abutting access floor panel (the structure of SMITH is capable of performing this intended use), wherein the first portion (21/22/27) of said gaskets (20, 20) has an elongate trim portion (21) and the resilient portion (28) has a convex profile that is resiliently depressible into a flattened profile (see Figs. 4 and 5).

As to claim 15, SMITH discloses an access floor panel of claim 12 as discussed above, and SMITH also discloses that each of said gaskets (20, 20) is formed of a flexible and resilient material ("polymeric materials" of 28 and 21 as discussed at col. 3, line 42 through col. 4, line 7).

As to claim 16, SMITH discloses an access floor panel of claim 12 as discussed above, and SMITH also discloses that the access floor panel (10) and the gasket (20)

are attached in one of an interlocking arrangement and by an adhesive (see col. 3, lines 26-30).

Claims 17-25 are rejected under 35 U.S.C. 102(b) as being anticipated by MUNSEY ET AL. (U.S. Patent No. 4,850,176).

As to claim 17, MUNSEY ET AL. disclose an access floor panel (130 in Fig. 6) comprising

a metal frame (70/80/82/132/134) and

at least one gasket (40),

wherein the metal frame (70/80/82/132/134) has a peripheral edge that includes a flange portion (82) spaced outwardly from a rib portion (132), and

wherein said at least one gasket (40) extends around the periphery of said panel (130) and comprises a first portion (resilient material in channel 30) that engages said peripheral edge and is located between the flange portion (82) and the rib portion (132) and a flexible and resilient sealing portion (outer convex surface of 40) extending downward from the first portion beyond the flange portion (82).

As to claim 18, MUNSEY ET AL. disclose an access floor panel of claim 17 as discussed above, and MUNSEY ET AL. also disclose that the flange portion (82) and the rib portion (132) each have a substantially vertical portion in use and form a channel (30) therebetween, said first portion of said at least one gasket (40) being located in said channel (30).

As to claim 19, MUNSEY ET AL. disclose an access floor panel of claim 17 as discussed above, and MUNSEY ET AL. also disclose that the first portion (resilient material in channel 30) forcibly engages the rib portion (132).

As to claim 20, MUNSEY ET AL. disclose an access floor panel of claim 18 as discussed above, and MUNSEY ET AL. also disclose that the first portion (resilient material in channel 30) forcibly engages a top edge (where 132 meets bottom of 80) of the rib portion (132).

As to claim 21, MUNSEY ET AL. disclose an access floor panel comprising a metal frame (70/80/82/132/134) and at least one gasket (40), wherein the metal frame (70/80/82/132/134) has a peripheral edge that includes a rib portion (132), and

wherein said at least one gasket (40) comprises a first portion (resilient material in channel 30) that encompasses and forcibly engages a portion of the peripheral edge and a flexible and resilient sealing portion (outer convex surface of 40) extending downward from the first portion (resilient material in channel 30) outside of the rib portion (132).

As to claim 22, MUNSEY ET AL. disclose an access floor panel of claim 21 as discussed above, and MUNSEY ET AL. also disclose that the first portion (resilient material in channel 30) forcibly engages the rib portion (132).

As to claim 23, MUNSEY ET AL. disclose an access floor panel of claim 21 as discussed above, and MUNSEY ET AL. also disclose that the first portion (resilient

material in channel 30) forcibly engages a top edge (where 132 meets bottom of 80) of the rib portion (132)..

As to claim 24, MUNSEY ET AL. disclose an access floor panel comprising a metal frame (70/80/82/132/134) and at least one gasket (40), said metal frame (70/80/82/132/134) having a peripheral edge with a substantially vertical rib portion (82), said at least one gasket (40) engaging said vertical rib portion (82) and extending downwardly therefrom on the outside of the peripheral edge.

As to claim 25, MUNSEY ET AL. disclose an access floor panel of claim 24 as discussed above, and MUNSEY ET AL. also disclose that said at least one gasket (40) forcibly engages a top edge (where 82 meets 80) of said vertical rib portion (82).

Claims 1, 6, 7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over SMITH (U.S. Patent No. 3,759,005).

As to claim 1, SMITH discloses an access floor assembly for installation on a sub-floor, the access floor assembly comprising:

a plurality of elongate support members (as discussed in background of invention section, SMITH's panels are meant to be used in elevated flooring system having pedestals), each of said support members (pedestals of elevated flooring system)

having a base for attachment to said sub-floor, and a head longitudinally spaced from said base (all pedestals of elevated flooring systems include a base and a head);

a plurality of access floor panels (10, 10), each said access floor panel (10) defining a top planar surface and an opposed bottom planar surface, each said access floor panel (10) being detachably connectable to the head of at least one of said support members (the floor panels 10, 10 of SMITH are capable of performing this intended use), each of the access floor panels (10, 10) defining a plurality of peripheral edges for abutting a peripheral edge of a respective access floor panel (SMITH is capable of performing this intended use as shown in Fig. 4); and

a plurality of gaskets (20, 20) for providing an air tight seal between the peripheral edges of abutting access floor panels (SMITH is capable of performing this intended use as discussed in first paragraph of col. 2), each of said gaskets (20, 20) having first portion (21/22/27) for attachment to one of said floor panels (21/22/27 of SMITH is capable of performing this intended use by 27 fitting in the slot 14 of the floor panel 10 and by 22 hooking over the edge of the floor panel 10) and a flexible and resilient sealing portion (28) for creating a seal between the peripheral edges of the abutting access floor panels (28 of SMITH is capable of performing this intended use by flattening out the convex surface of thereof as shown in Figs. 4 and 5), wherein the first portion (21/22/27) of each of said gaskets (20, 20) has an elongate trim portion (21, 21) and the resilient portion (28, 28) has a convex profile that is resiliently depressible into a flattened profile (from convexity shown in Fig. 3 to flatness shown in Figs. 4 and 5).

In the alternative, if SMITH fails to explicitly disclose a plurality of elongate support members, each of said support members having a base for attachment to said sub-floor, and a head longitudinally spaced from said base, then it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the access floor panel system of SMITH to include a plurality of elongate support members, each of said support members having a base for attachment to said sub-floor, and a head longitudinally spaced from said base as taught by the discussion of elevated flooring systems having vertically adjustable pedestals in the Background of the Invention section of SMITH in order to provide for an air plenum beneath the elevated floor panels which when situated adjacent each other, provide an air seal.

As to claim 6, SMITH discloses an access floor assembly of claim 1 as discussed above, and SMITH also discloses that each of said plurality of gaskets (20, 20) abuts another one (see Fig. 4) of said plurality of gaskets (20, 20) to form an air seal when the access floor assembly is installed (SMITH is capable of performing this intended use).

As to claim 7, SMITH discloses an access floor assembly of claim 1 as discussed above, and SMITH also discloses that each of said gaskets (20, 20) is integrally formed on one of said peripheral edges of one of said floor panels (10, 10).

As to claim 10, SMITH discloses an access floor assembly of claim 1 as discussed above, and SMITH also discloses that the gaskets (20, 20) are formed of a flexible and resilient material ("polymeric materials" of 28 and 21 as discussed at col. 3, line 42 through col. 4, line 7).

Response to Arguments

Applicant's arguments with respect to claims 1, 6, 7, 10, 12, and 15-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/823,727
Art Unit: 3635

Page 15

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

^{GAS}
Gay Ann Spahn, Patent Examiner
December 2, 2007

Robert Canfield
Primary Examiner

